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7 **BEFORE THE**
8 **CALIFORNIA BOARD OF ACCOUNTANCY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2004-16

12 **ROMEO E. SAMILEY**

179 Fern Avenue
Upland, CA 91786

Certified Public Accountant
Certificate No. 36604

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

Respondent.

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17 FINDINGS OF FACT

18 1. On or about June 14, 2004, Complainant Carol Sigmann, in her official
19 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of
20 Consumer Affairs, filed Accusation No. AC-2004-16 against Romeo E. Samiley (Respondent)
21 before the Board.

22 LICENSE HISTORY

23 2. On or about December 3, 1982, the Board issued Certified Public
24 Accountant Certificate No. 36604 to Respondent. The certificate was expired and was not valid
25 during the period April 1, 1998 through September 20, 1998. On September 21, 1998, the
26 application for active renewal was received; however, compliance with the continuing education
27 requirements was not reported. The certificate was placed in a "hold" status without practice
28 rights, pending compliance with the continuing education requirements. At Respondent's request,

1 effective March 3, 2000, the certificate was renewed through March 31, 2000, without compliance
2 with the continuing education requirements ("inactive"). The certificate expired on April 1, 2000,
3 and is currently in a "delinquent" status.

4 3. On or about June 22, 2004, Teresa Sutton, an employee of the Department
5 of Justice, served by Certified and First Class Mail a copy of the Accusation No. AC-2004-16,
6 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
7 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
8 was and is 179 Fern Avenue, Upland, CA 91786. A copy of the Accusation and service
9 documents are attached as Exhibit "A", and are incorporated herein by reference.

10 4. Service of the Accusation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c).

12 5. Government Code section 11506 states, in pertinent part:

13 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
15 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
16 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

17 6. Respondent failed to file a Notice of Defense within 15 days after service
18 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
19 Accusation No. AC-2004-16.

20 7. California Government Code section 11520 states, in pertinent part:

21 "(a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions or
23 upon other evidence and affidavits may be used as evidence without any notice to
24 respondent."

25 8. Pursuant to its authority under Government Code section 11520, the Board
26 finds Respondent is in default. The Board will take action without further hearing and, based on
27 Respondent's express admissions by way of default and the evidence before it, contained in
28 exhibit A finds that the allegations in Accusation No. AC-2004-16 are true.

9. The total costs for investigation and enforcement are \$3,125.50 as of August 20, 2004.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Romeo E. Samiley has subjected his Certified Public Accountant Certificate No. 36604 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The California Board of Accountancy is authorized to revoke Respondent's Certified Public Accountant Certificate based upon the following violations alleged in the Accusation:

a. Business and Professions Code section 5100 and California Code of Regulations, title 16, section 80(a) - engaged in the practice of public accountancy with an inactive license.

b. Business and Professions Code sections 5100 and 5050 - engaged in the practice of public accountancy without a valid permit.

c. California Code of Regulations, title 16, section 87 - engaged in the practice of public accountancy without meeting the continuing education requirements.

d. Business and Professions Code section 5100(g) - willfully violated
Board regulations.

e. Business and Professions Code section 5100 and California Code of Regulations, title 16, section 3(a)(1) - failed to notify the Board of his change of address.

ORDER

IT IS SO ORDERED that Certified Public Accountant Certificate No. 36604,
heretofore issued to Respondent Romeo E. Samiley, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on

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1 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
2 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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4 This Decision shall become effective on October 14, 2004.

5 It is so ORDERED September 14, 2004

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8 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
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26 Attachments:
27 Exhibit A: Accusation No. AC-2004-16
28 DOJ docket number: 03541110-LA2004600139

Exhibit A

Accusation No. AC-2004-16

BILL LOCKYER, Attorney General
of the State of California
DESIREE A. PHILLIPS, State Bar No. 157464
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2578
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROMEO E. SAMILEY

Respondent.

Case No. AC-2004-16

STATEMENT TO RESPONDENT

[Gov. Code §§ 11503, 11505, subd. (b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the California Board of Accountancy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board, represented by Deputy Attorney General Desiree A. Phillips, within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code, to:

///

1 **Desiree A. Phillips**
2 **Deputy Attorney General**
3 **Ronald Reagan Building**
 300 South Spring Street, Suite 1702
 Los Angeles, CA 90013.

4 You may, but need not, be represented by counsel at any or all stages of these
5 proceedings.

6 The enclosed Notice of Defense, if signed and filed with the Board, shall be
7 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
8 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
9 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
10 on you.

11 If you file any Notice of Defense within the time permitted, a hearing will be held
12 on the charges made in the Accusation.

13 The hearing may be postponed for good cause. If you have good cause, you are
14 obliged to notify the Office of Administrative Hearings, 1350 Front Street, Suite 6022, San
15 Diego, California 92101, within ten (10) working days after you discover the good cause. Failure
16 to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
17 postponement.

18 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
19 enclosed.

20 If you desire the names and addresses of witnesses or an opportunity to inspect
21 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
22 custody or control of the Board you may send a Request for Discovery to the above designated
23 Deputy Attorney General.

24 **NOTICE REGARDING STIPULATED SETTLEMENTS**

25 It may be possible to avoid the time, expense and uncertainties involved in an
26 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
27 settlement is a binding written agreement between you and the government regarding the matters
28 charged and the discipline to be imposed. Such a stipulation would have to be approved by the

1 California Board of Accountancy but, once approved, it would be incorporated into a final order.

2 Any stipulation must be consistent with the Board's established disciplinary
3 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the
4 Board's Disciplinary Guidelines will be provided to you on your written request to the state
5 agency bringing this action.

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7 If you are interested in pursuing this alternative to a formal administrative hearing,
8 or if you have any questions, you or your attorney should contact Deputy Attorney General
9 Desiree A. Phillips at the earliest opportunity.

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1 BILL LOCKYER, Attorney General
of the State of California
2 DESIREE A. PHILLIPS, State Bar No. 157464
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2578
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2004-16

12 **ROMEO E. SAMILEY**

13 179 Fern Avenue
Upland, CA 91786

14 Certified Public Accountant
15 Certificate No. 36604

A C C U S A T I O N

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of
21 Consumer Affairs.

22 **LICENSE HISTORY**

23 2. On or about December 3, 1982, the Board issued Certified Public
24 Accountant Certificate No. 36604 to Romeo E. Samiley (Respondent). The certificate was
25 expired and was not valid during the period April 1, 1998 through September 20, 1998. On
26 September 21, 1998, the application for active renewal was received; however, compliance with
27 the continuing education requirements was not reported. The certificate was placed in a "hold"
28 status without practice rights, pending compliance with the continuing education requirements.

1 At Respondent's request, effective March 3, 2000, the certificate was renewed through March 31,
2 2000, without compliance with the continuing education requirements ("inactive"). The
3 certificate expired on April 1, 2000, and is currently in a "delinquent" status.

4 JURISDICTION

5 3. This Accusation is brought before the California Board of Accountancy
6 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
7 references are to the Business and Professions Code unless otherwise indicated.

8 4. Section 5100 states:

9 "After notice and hearing the board may revoke, suspend, or refuse to renew any
10 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
11 (commencing with Section 5080), or may censure the holder of that permit or certificate for
12 unprofessional conduct that includes, but is not limited to, one or any combination of the
13 following causes:

14

15 "(g) Willful violation of this chapter or any rule or regulation promulgated
16 by the board under the authority granted under this chapter."

17 5. Section 5050 states, in pertinent part, that no person shall engage in the
18 practice of public accountancy in this State unless such person is the holder of a valid permit to
19 practice public accountancy issued by the board.

20 6. Section 5109 states:

21 "The expiration, cancellation, forfeiture, or suspension of a license by operation of
22 law or by order or decision of the board or a court of law, or the voluntary surrender of a license
23 by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or
24 action or disciplinary proceeding against the licensee, or to render a decision suspending or
25 revoking the license."

26 7. California Code of Regulations, title 16, section 3(a)(1) states, in
27 pertinent part, that each licensee shall notify the Board of any change in his address of record
28 within 30 days after the change.

1 8. California Code of Regulations, title 16, section 3(a)(2) states, in pertinent
2 part, that "licensee" includes any holder of an active, inactive, suspended, or expired certified
3 public accountant license or public accountant license issued by the Board which is not canceled
4 or revoked.

5 9. California Code of Regulations, title 16, section 80(a) states that the
6 holder of an inactive license shall not engage in the practice of public accountancy as defined in
7 section 5051 of the Code.

8 10. California Code of Regulations, title 16, section 87 provides, in pertinent
9 part, that as a condition of active status license renewal, a licensee shall complete at least 80 hours
10 of qualifying continuing education as described in Section 88 in the two-year period immediately
11 preceding license expiration, and meet the reporting requirements specified in subsection (a) of
12 Section 89. A licensee engaged in the practice of public accountancy as defined in Section 5051 of
13 the Code is required to hold a license in active status. No carryover of continuing education is
14 permitted from one two-year license renewal period to another.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Practicing With An Inactive License)**

17 11. Respondent is subject to disciplinary action pursuant to section 5100 of the
18 Code and in violation of California Code of Regulations, title 16, section 80(a), in that
19 Respondent engaged in the practice of public accountancy with an inactive CPA license as
20 follows:

21 a. On or about September 21, 1998, Respondent's application for
22 renewal of his CPA license in "active" status was placed on administrative hold due to the lack of
23 continuing education required for active renewal.

24 b. On or about March 3, 2000, Respondent's CPA license was
25 converted to "inactive" status at his request. His license subsequently expired and became
26 delinquent on April 1, 2000, and presently remains delinquent. However, in Respondent's July
27 24, 2003 letter to the Board, Respondent admitted that during the 2000, 2001, 2002, and 2003
28 tax seasons he had prepared 36 individual, two partnership and three corporation income tax

1 returns.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Practicing Without a Valid Permit)**

4 12. Complainant realleges paragraph 11 above, and incorporates it herein by
5 reference as if fully set forth at this point.

6 13. Respondent is subject to disciplinary action pursuant to section 5100 of the
7 Code and in violation of section 5050 of the Code in that Respondent engaged in the practice of
8 public accountancy without a valid permit.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Practicing Public Accountancy Without Meeting the Continuing Education**
11 **Requirements)**

12 14. Complainant realleges paragraph 11 above, and incorporates it herein by
13 reference as if fully set forth at this point.

14 15. Respondent is subject to disciplinary action by the Board pursuant to
15 California Code of Regulations, title 16, section 87, in that Respondent submitted a license
16 renewal application for the period of April 1, 1998 through March 31, 2000, requesting renewal
17 in active status. Respondent's renewal application failed to declare completion of 80 hours of
18 continuing education required for active status. Subsequently, Respondent has failed to provide
19 documentation of completed continuing education for active status for the periods of April 1,
20 2000 through March 31, 2002, and April 1, 2002 through March 31, 2004.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Willful Violation of Board Regulations)**

23 16. Respondent is subject to disciplinary action pursuant to section 5100(g) of
24 the Code in that Respondent willfully violated the Board's regulations by his continued practice of
25 public accountancy after changing his license to inactive status then allowing it to expire and
26 remain delinquent. In addition, Respondent's 1998 application for renewal in active status failed
27 to declare 80 hours of continuing education required for active status.
28

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Notify Board of Address Change)**

3 17. Respondent is subject to disciplinary action pursuant to section 5100 of the
4 Code and in violation of California Code of Regulations, title 16, section 3(a)(1), in that
5 Respondent failed to notify the Board of his change of address as follows:

6 a. On or about October 20, 2002, Respondent changed his address,
7 but failed to notify the Board in writing of his change of address to 179 Fern Avenue, Upland, CA
8 until July 24, 2004.

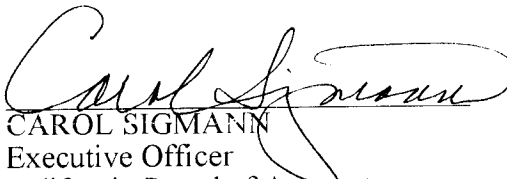
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10 **PRAYER**

11 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

13 1. Revoking, suspending or otherwise imposing discipline upon Certified
14 Public Accountant Certificate No. 36604, issued to Romeo E. Samiley;

15 2. Taking such other and further action as the Board deems proper.

16 DATED: June 14, 2004

17
18 
19 CAROL SIGMANN
20 Executive Officer
21 California Board of Accountancy
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 03541110-LA2004600139
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